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6 AETNA LIFE INSURANCE COMPANY, THE
PARSONS BRINCKERHOFF GROUP
7 ADMINISTRATION, INC. SHORT TERM
DISABILITY PLAN AND THE PARSONS
8 BRINCKERHOFF GROUP
ADMINISTRATION, INC. LONG TERM
9 DISABILITY PLAN

10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 ELIZABETH FOWLER,
14

Plaintiff,

15 v.

16 AETNA LIFE INSURANCE COMPANY; THE
PARSONS BRINCKERHOFF GROUP
17 ADMINISTRATION, INC. SHORT TERM
DISABILITY PLAN; THE PARSONS
18 BRINCKERHOFF GROUP
ADMINISTRATION, INC. LONG TERM
19 DISABILITY PLAN; and DOES 1 through 20,
INCLUSIVE,

Defendants.
20
21

CASE NO. 3:08-cv-03463 (MEJ)

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO DISMISS
[FED. R. CIV. P. 12(b)(6)] AND MOTION
TO STRIKE [FED. R. CIV. P. 12(f)]**

DATE: September 18, 2008
TIME: 10 a.m.
DEPT.: CourtroomB
JUDGE: Hon. Maria-Elena James

22 Defendants Aetna Life Insurance Company, The Parsons Brinckerhoff Group
23 Administration, Inc. Short Term Disability Plan and The Parsons Brinckerhoff Group
24 Administration, Inc. Long Term Disability Plan (collectively referred to as "Defendants") filed a
25 Motion to Dismiss, pursuant to Federal Rule of Civil Procedure 12(b)(6), Plaintiff Elizabeth
26 Fowler's ("Fowler") Second Cause of Action set forth in her first amended complaint in this
27 action. Defendants also filed a Motion to Strike, pursuant to Federal Rule of Civil Procedure
28 12(f), Fowler's request to recover emotional distress damages and injunctive relief. Defendants

1 also sought an order denying Fowler's request for a jury trial. Defendants' Motion to Dismiss
2 and Motion to Strike are collectively referred as "Motion."

3 Defendants' Motion was heard on September 18, 2008, before Honorable Maria-Elena
4 James in this Court.

5 Considering the parties' papers regarding Defendants' Motion and hearing oral argument,
6 Defendants' Motion is GRANTED.

7 IT IS HEREBY ORDERED as follows:

8 1. Fowler's Second Cause of Action for Equitable Relief is dismissed with prejudice
9 because it is precluded by ERISA because Fowler has an adequate available remedy under
10 ERISA for alleged wrongful termination of benefits pursuant to 29 U.S.C. § 1132(a)(1)(B);

11 2. Fowler's request to recover for emotional distress and injunctive relief under her
12 First Cause of Action and Second Cause of Action are stricken because they are not recoverable
13 under ERISA as a matter of law.

14 3. Fowler's request for a jury trial is denied because it is impermissible under
15 ERISA.

16 **IT IS SO ORDERED.**

17
18 Dated: _____

19 Judge of the District Court